

# Exhibit H

LEE W. POYE, on 09/25/2020  
WILLIE MCNEAL, JR., vs AUTOZONE, INC., et al.

Page 1

Page 1

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

Coordinated Proceeding )  
Special Title (Rule 3.550) )

LAOSD ASBESTOS CASES )

\_\_\_\_\_  
WILLIE MCNEAL, JR., )

) Case No. BC698965

Plaintiff, )

**Certified Transcript**

vs. )

AUTOZONE, INC., et al., )

) (Pages 1 - 137)

Defendants. )  
\_\_\_\_\_)

TELEPHONIC DEPOSITION OF EXPERT WITNESS

LEE W. POYE

FRIDAY, SEPTEMBER 25, 2020

Reported by: PAIGE I. HUTCHINSON, CA CSR No. 13459,  
TX CSR No. 11222, WA CCR No. 3336


LEE W. POYE, on 09/25/2020  
WILLIE MCNEAL, JR., vs AUTOZONE, INC., et al.

Pages 126–129

<p style="text-align: right;">Page 126</p> <p>1 was saying.</p> <p>2 MR. PURDY: No, no. I know. I know. But I</p> <p>3 just don't want anybody to think, when I go in there on</p> <p>4 direct, that someone makes a Kennemur objection that</p> <p>5 that opinion wasn't disclosed. I totally intend to --</p> <p>6 and I'll be very candid to tell the story of how, you</p> <p>7 know, he was given a QC, didn't know it, and passed the</p> <p>8 test and all that. But you guys get it.</p> <p>9 But go ahead. That's all I have for Mr. Poye</p> <p>10 today.</p> <p>11 MR. COSMICH: You're just finding out. It</p> <p>12 would have been hard for you to disclose it at the</p> <p>13 time.</p> <p>14</p> <p>15 EXAMINATION</p> <p>16 BY MR. COSMICH:</p> <p>17 Q. Mr. Poye, I've got a few questions for you.</p> <p>18 Earlier you were asked about whether or not</p> <p>19 you had any knowledge of any other experts testing Old</p> <p>20 Spice for asbestos in talc.</p> <p>21 Do you recall that?</p> <p>22 A. I do.</p> <p>23 Q. Do you recall, at the request of Simon</p> <p>24 Greenstone, sending one of the Old Spice samples to a</p> <p>25 Mr. Mlekush?</p>	<p style="text-align: right;">Page 128</p> <p>1 this chrysotile, at the level he claims it, actually</p> <p>2 exists; right?</p> <p>3 A. Correct.</p> <p>4 Q. Now, you were also provided with and your lab</p> <p>5 reviewed the actual PLM photos of what Dr. Longo claims</p> <p>6 to be chrysotile in these samples, weren't you?</p> <p>7 A. Yes, I was.</p> <p>8 Q. Do you agree that the photos that you were</p> <p>9 provided represent chrysotile from those Old Spice</p> <p>10 samples?</p> <p>11 A. No, I do not. As a matter of fact, I asked</p> <p>12 our PLM managers to review all those photos, and I can</p> <p>13 say conclusively that he did not agree with a single</p> <p>14 one of the calls that was made.</p> <p>15 Q. And why was that?</p> <p>16 A. Just based on the color, the RIs, refractive</p> <p>17 indices, of the materials did not match what they</p> <p>18 should have been in the 1550 RI fluid that they were</p> <p>19 purported to be taken in.</p> <p>20 Q. Do you agree with the range of RIs cited by</p> <p>21 Dr. Longo as support for his finding of chrysotile in</p> <p>22 these products?</p> <p>23 A. No. The range of RIs that he reported is -- I</p> <p>24 remember going through that list and noticing that</p> <p>25 every single one exceeded the -- what would be</p>
<p style="text-align: right;">Page 127</p> <p>1 A. Yes, I do. Now that you mention it.</p> <p>2 Q. Okay. So that one just slipped your mind;</p> <p>3 right?</p> <p>4 A. Yes. That was -- I can't -- how long ago was</p> <p>5 that?</p> <p>6 Q. Back 2000 -- well, it was around Depoian, so</p> <p>7 2015, 2016?</p> <p>8 A. All right. Well, I'm not as embarrassed</p> <p>9 anymore.</p> <p>10 Q. Okay. You were asked some questions about</p> <p>11 your -- the budget per sample that your lab charged us</p> <p>12 to review these samples.</p> <p>13 Do you recall that?</p> <p>14 A. I do.</p> <p>15 Q. Did that budget -- who set that amount?</p> <p>16 A. I did.</p> <p>17 Q. Do you feel like that budget in any way</p> <p>18 impaired or restricted your lab's ability to adequately</p> <p>19 assess the samples that you analyzed?</p> <p>20 A. No, sir. At that pay level, I'm confident</p> <p>21 that we got to the right result.</p> <p>22 Q. You were asked some questions about</p> <p>23 Dr. Longo's chrysotile findings and you talked about --</p> <p>24 you know, a little bit about the lack of serpentine</p> <p>25 peaks on XRD and what you'd expect to find on TEM if</p>	<p style="text-align: right;">Page 129</p> <p>1 considered acceptable ranges for chrysotile by</p> <p>2 EPA/600/R-93/116.</p> <p>3 Q. In your opinion, what do those photos that</p> <p>4 Dr. Longo claims is chrysotile from that -- from his</p> <p>5 PLM analysis, what are those structures?</p> <p>6 A. The edge of talc plates.</p> <p>7 Q. And as far as any literature, supporting</p> <p>8 documentation, photos, did you provide all of the</p> <p>9 support for those opinions in your reliance material?</p> <p>10 A. Yes, I did.</p> <p>11 Q. Last question. Mr. Poye, if someone were to</p> <p>12 take the report that you rendered on the last five</p> <p>13 samples -- I shouldn't have said one last question.</p> <p>14 If someone were to take the report that you've</p> <p>15 rendered on the last five samples and presented it as</p> <p>16 support that you found asbestiform tremolite in those</p> <p>17 samples, would that be accurate?</p> <p>18 MR. PURDY: Just vague and ambiguous as to</p> <p>19 "asbestiform."</p> <p>20 THE DEPONENT: No, that wouldn't be -- that</p> <p>21 would not necessarily be accurate, no.</p> <p>22 BY MR. COSMICH:</p> <p>23 Q. Okay. In your opinion, what you found are</p> <p>24 actually non-asbestiform structures; correct?</p> <p>25 A. Based on the aspect ratios of all four</p>

LEE W. POYE, on 09/25/2020  
WILLIE MCNEAL, JR., vs AUTOZONE, INC., et al.

Pages 134-137

Page 134		Page 136	
1	record.	1	STATE OF CALIFORNIA )
2		2	)
3	(Whereupon, at the hour of	2	COUNTY OF LOS ANGELES )
4	12:44 p.m., the proceedings	3	
5	were concluded.)	4	I, Paige I. Hutchinson, Certified Shorthand
6	-o0o-	5	Reporter, No. 13459, do hereby certify:
7		6	That prior to being examined, the witness
8		7	named in the foregoing deposition was by me duly
9		8	sworn to testify to the truth, the whole truth, and
10		9	nothing but the truth;
11		10	That said deposition was taken before me
12		11	remotely via videoconference; and thereafter reduced to
13		12	print by means of computer-aided transcription; and the
14		13	same is a true, correct, and complete transcript of
15		14	said proceedings taken at that time, to the best of my
16		15	ability.
17		16	I further certify that I am not interested in
18		17	the outcome of the action.
19		18	Witness my hand this, Wednesday, September 29,
20		19	2020.
21		20	
22		21	
23		22	
24		23	Paige I. Hutchinson, CA CSR No. 13459,
25		24	
		25	TX CSR No. 11222, WA No. 3336
Page 135		Page 137	
1	DECLARATION UNDER PENALTY OF PERJURY	1	CORRECTION LIST
2		2	
3		3	Page/Line From To
4	I, LEE W. POYE, do hereby certify under	4	
5	penalty of perjury that I have read the foregoing	5	
6	transcript of my deposition taken on	6	
7	September 25, 2020; that I have made such corrections	7	
8	as appear noted herein in ink, initialed by me; that my	8	
9	testimony as contained herein, as corrected, is true	9	
10	and correct.	10	
11		11	
12	DATED this ____ day of _____, 2020,	12	
13	at _____, California.	13	
14		14	
15		15	
16		16	
17		17	
18		18	
19		19	
20	_____ LEE W. POYE	20	
21		21	
22		22	
23		23	
24		24	
25		25	